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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

KIKIKTAGRUK INUPIAT
CORPORATION (“KIC”) and KIC
DEVELOPMENT (“KICD”),

Plaintiff,

vs.

WALTON INVESCO, INC., ERNEST
C. TREFZ, as Executor of the Estate of
Walter Baum; ANTHONY ACRI; and
CHRISTINE HAYES,

Defendant.

NOTICE OF REMOVAL

Case No.

Superior Court No. 3AN-13-6775 CI

Pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446, Defendant Walton Invesco, Inc. hereby gives notice of the removal of *Kikiktagruk Inupiat Corporation, et al. v. Walton Invesco, Inc., et al.*, Case No. 3AN-13-6775 CI, from the Superior Court for the State of Alaska, Third Judicial District, at Anchorage, to the United States District Court for the District of Alaska.

In support of this removal, Walton Invesco hereby alleges:

1. The United States District Court for the District of Alaska has original jurisdiction over the complaint filed by Plaintiffs Kikiktagruk Inupiat Corporation and KIC Development within the meaning of 28 U.S.C. § 1441(a) and 28 U.S.C. § 1331 because Plaintiffs' complaint alleges a cause of action based on 18 U.S.C. § 1030(g). *See* (Plaintiffs' Complaint, Ex. 1 to this Notice, ¶ 146-152) Therefore, the United States District Court for the District of Alaska has federal question jurisdiction. *See* 28 U.S.C. § 1331.

2. The United States District Court for the District of Alaska also has original jurisdiction over the complaint filed by Plaintiffs within the meaning of 28 U.S.C. § 1441(a) and 28 U.S.C. § 1332 because there is complete diversity of citizenship between Plaintiffs and Defendants and the amount in controversy exceeds \$75,000.

3. There is complete diversity between Plaintiffs and Defendants and no Defendant is a citizen of the State of Alaska. The parties citizenship is as follows:

(a) Plaintiff Kikiktagruk Inupiat Corporation is a corporation organized under the laws of the State of Alaska. (Plaintiffs' Complaint, Ex. 1 to this Notice, ¶ 4) Its principal place of business is in Alaska. *Id.* It is a citizen of the State of Alaska.

(b) Plaintiff KIC Development is a limited liability company organized under the laws of the State of Alaska. (Plaintiffs' Complaint, Ex. 1 to this Notice, ¶ 5) For purposes of diversity jurisdiction, a limited liability company is deemed to have the citizenship of its members. Kikiktagruk Inupiat Corporation and Walton Invesco were, at one time, the two members of KIC Development. (Plaintiffs' Complaint, Ex. 1 to this Notice, ¶ 18) On July 18, 2011, Walton Invesco gave Kikiktagruk Inupiat Corporation notice of its withdrawal from KIC Development. (Plaintiffs' Complaint, Ex. 1 to this

Notice, ¶ 40) Pursuant to Article IX, Section 1 of KIC Development's Operating Agreement, Walton Invesco was deemed to have withdrawn from KIC Development six months later, on January 18, 2012, with Kikiktagruk Inupiat Corporation taking ownership of Walton Invesco's interest in KIC Development.¹ (KIC Development Operating Agreement, attached and marked as Exhibit A to Plaintiffs' Complaint, Ex. 1 to this Notice, pp. 31) Consequently, as of the filing of Plaintiffs' complaint, the only member of KIC Development is Kikiktagruk Inupiat Corporation, which is a citizen of the State of Alaska. *Supra*, Notice of Removal, ¶ 3(a). KIC Development's principal place of business is in Kotzebue, Alaska. (Plaintiffs' Complaint, Ex. 1 to this Notice, ¶ 5) Therefore, KIC Development is a citizen of the State of Alaska.

(c) Defendant Walton Invesco is a corporation incorporated in the State of Connecticut. Walton Invesco's principal place of business is in Connecticut. Walton Invesco is a citizen of the State of Connecticut.

(d) Defendant Anthony Acri is a citizen of the State of Connecticut.

(e) Walter Baum, now deceased, was a citizen of the State of Connecticut. Therefore, Defendant Estate of Walter Baum is a citizen of the State of Connecticut.

(f) Defendant Christine Hayes is a citizen of the State of Virginia.

¹ Although Walton Invesco is no longer a member of KIC Development, there remains, as Plaintiffs acknowledge in their complaint, a dispute over the amount that Kikiktagruk Inupiat Corporation must pay Walton Invesco for its former interest in KIC Development. *See e.g.* (Ex. A, Complaint ¶¶ 173-178)

4. The amount in controversy is in excess of \$75,000. Plaintiffs specifically allege in their complaint that they seek damages in excess of \$100,000. (Plaintiffs' Complaint, Ex. 1 to this Notice, p. 21).

5. Therefore, because there is complete diversity between Plaintiffs and Defendants and the amount in controversy is in excess of \$75,000, this Court has diversity jurisdiction. *See* 28 U.S.C. § 1332.

6. The documents that have been filed with the Clerk of the Superior Court for the State of Alaska prior to this Notice of Removal are (1) Complaint, (2) Notice of Filing Exhibits to Complaint, (3) Demand for Jury Trial, and (3) Summons and Notice to Both Parties of Judicial Assignment. Copies of these documents are attached as Exhibit 1.

7. The registered agent for Walton Invesco was served with Plaintiffs' Complaint on May 3, 2013. Therefore, this Notice of Removal is timely.

8. As of the filing of this Notice of Removal, Defendants Estate of Walter Baum, Walton Invesco, and Christine Hayes have been served by Plaintiffs. As of the filing of this Notice of Removal, Defendant Anthony Acri has not been served by Plaintiffs.

9. Defendant Estate of Walter Baum consents to the removal of the action. *See* Estate of Walter Baum's Consent To Removal To The Federal District Court For The State Of Alaska, attached as Exhibit 2.

10. Defendant Christine Hayes consents to the removal of the action. *See* Christine Hayes' Consent To Removal To The Federal District Court For The State Of Alaska, attached as Exhibit 3.

11. Walton Invesco has filed a Notice to Superior Court of Removal in the Superior Court for the State of Alaska, Third Judicial District, at Anchorage. A copy of that Notice to Superior Court of Removal is attached as Exhibit 4.

12. Walton Invesco has served by mail a copy of the following documents on Plaintiffs and Defendants Estate of Walter Baum, Anthony Acri, and Christine Hayes: (a) Notice of Removal, including all exhibits, (b) Consents To Removal To The Federal District Court For The State Of Alaska, and (c) Notice to Superior Court of Removal, including all exhibits.

DATED this 22nd day of May, 2013.

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I certify that on May 22, 2013,
a copy of the foregoing document was sent
to the following attorneys or parties
of record by:

- ☒ Mail
- ☒ E-mail
- ☐ Facsimile
- ☐ Hand Delivery

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